REPORTABLE

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

W.P.(C) 2836/2005

Date of decision : February 15, 2007.

OM PARKASH ..... Petitioner
Through Mr.Arvind Kumar Gupta, Advocate.

versus

B.S.E.S. ..... Respondent
Through Mr.Jayant Nath, Senior Advocate
with Mr.Rajnish K.Jha, Advocate.

CORAM:

HON'BLE MS. JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the reporter or not ? Yes
3. Whether the judgment should be reported in the `Digest?' Yes

REKHA SHARMA, J. (ORAL)

This writ petition has been filed seeking a direction to the

respondent to grant all benefit and arrears of salary to the petitioner w.e.f. 24.8.1999.

It so happened that an enquiry was conducted against the petitioner while he was working with the respondent as a Junior Engineer. The report of the Enquiry Officer fortunately for the petitioner went in his favour. When the matter came before the Disciplinary Authority it disagreed with the finding of the Enquiry Officer and passed an order dated 21.8.2000 imposing major penalty upon the petitioner of reduction by four stages in his time scale of pay for a period of four years with further stipulation that he will not earn any increment of pay during the period of reduction. The petitioner preferred an appeal against this order to the Appellate Authority which by order dated 20.7.2001 reduced the penalty to reduction by one stage for one year in his present time scale with cumulative effect.

Aggrieved by the orders of the Disciplinary Authority and the Appellate Authority, the petitioner preferred a writ petition in this Court seeking quashing of the orders dated 21.8.2000 and 20.7.2001. This Court by order dated 9.5.2002 relying upon

two judgments of the Supreme Court in Punjab National Bank and others v. Kunj Behari Misra AIR 1998 S.C. 2713 and Yognath D.Bagde v. State of Maharashtra and another AIR 1999 S.C.3734 held that the orders passed by the Disciplinary Authority and then by the Appellate Authority were liable to be quashed as the Disciplinary Authority while disagreeing with the finding of the Enquiry Officer did not provide an opportunity to the petitioner to satisfy it that a conclusion different from the one arrived at by the Enquiry Officer was not warranted. It is submitted that despite the order of this Court quashing the orders of the disciplinary authority and the appellate authority the consequential benefits have not been paid to the petitioner and it is this inaction of the respondent which has led him to file the present petition seeking direction to the respondent to pay the consequential benefits.

According to learned counsel for the respondent, this Court while quashing the orders passed by the Disciplinary Authority and the Appellate Authority gave no direction to the respondent to pay the consequential benefits. The said

submission is being noticed only to be rejected for it is elementary that if the orders impugned in a writ petition have been quashed, status-quo-ante has to follow. In the present case the orders of the disciplinary authority and the appellate authority having been held to be not in conformity with the decisions rendered by the Supreme Court, the order of the Enquiry Officer gets restored. Therefore, to contend, that the respondent is not obliged to pay consequential benefits is to render the judgment nugatory.

It is also sought to be contended by learned counsel for the respondent that this Court in its order dated 9.5.2002 had granted opportunity to the respondent to issue a fresh show cause notice to the petitioner giving reasons as to why Disciplinary Authority is disagreeing with the Enquiry Officer and, therefore, the proceedings which were initiated against the petitioner did not come to an end. Accordingly, it is further contended that it cannot be argued by the petitioner that it is the order of the Enquiry Officer which will hold the field. It is stated that a fresh show cause notice has already been issued to

the petitioner and the proceedings pursuant thereto are pending. This submission is only a repeat of the earlier submission except that it has been put differently.

In view of what has been noticed above , the writ petition is allowed. The respondent is directed to pay to the petitioner consequential benefits which he became entitled to upon this court having quashed the orders of the disciplinary authority dated 21.8.2000 and 20.7.2001 passed in a earlier writ petition No.6386/2000.

REKHA SHARMA, J

FEBRUARY 15, 2007
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